Simon v. Adzilla, Inc [New Media] et al Doc. 469 Att.

Exhibit C

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Attorneys for Plaintiffs
THE FACEBOOK, INC. and MARK ZUCKERBERG

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE FACEBOOK, INC. and MARK ZUCKERBERG, Plaintiffs, v. CONNECTU, INC. (formerly known as CONNECTU, LLC), PACIFIC NORTHWEST SOFTWARE, INC., WINSTON WILLIAMS, and WAYNE CHANG, Defendants.	Case No. 5:07-CV-01389-JW **PLAINTIFFS' [PROPOSED] JUDGMENT**

On June 23, 2008, Plaintiffs Facebook, Inc. and Mark Zuckerberg's Confidential Motion to ~~enforce~~Enforce the ~~Term Sheet &~~ Settlement Agreement ~~attached in redacted form as "Exhibit A" to this Judgment~~ came on for hearing before this Court. Plaintiffs were represented by I. Neel Chatterjee, Susan Resley, and Monte M.F. Cooper of Orrick, Herrington & Sutcliffe LLP. Defendant ConnectU, Inc. was represented by David Barrett and Steven Holtzman of Boies, Schiller & Flexner. Defendants Pacific Northwest Software, Wayne Chang and Winston Williams were represented by Scott R. Mosko of Finnegan Henderson Farabow Garrett & Dunner. ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss and Divya Narendra, plaintiffs in the related Massachusetts action,[1] were represented by John F. Hornick, also of the Finnegan firm.

On February 22 and 23, 2008, the parties engaged in mediation before Antonio Piazza. As a result of that mediation, the parties executed a Term Sheet and Settlement Agreement ("Settlement Agreement"). On April 23, 2008, Plaintiffs filed a Confidential Motion to Enforce the Settlement Agreement. Dkt. 329.

The Court having adjudicated the issues raised in Plaintiffs' Motion (Dkt. 329) and Reply (Dkt. 420), as well as Defendant ConnectU's Opposition (Dkt. 407), Sur-Reply (Dkt. 438) and Additional Authorities (Dkt. 454), and admissible portions of the affidavits and declarations ~~filed therewith~~relating thereto:

It is hereby ORDERED, ADJUDGED~~,~~ AND DECREED that Plaintiffs' Confidential Motion to Enforce the ~~Parties'~~ Settlement Agreement is GRANTED, as follows:

1. ~~Within five (5) court days after this Judgment becomes final and non-appealable:~~ The Parties to this action, as well as the related Massachusetts Actions, shall comply with all terms of the Settlement Agreement, which is attached hereto in redacted form as Exhibit 1.

~~a.~~ ~~The Parties shall take the actions required of them by Exhibit A;~~

~~b.~~ ~~ConnectU's shareholders shall deliver to Facebook, Inc., the certificates representing~~

[1] *ConnectU LLC v. Facebook, Inc., et al*, Case No. 1:04-cv-11923-DPW; and *ConnectU, Inc., et al v. Facebook, Inc., et al*, Case No. 1:07-cv-10593-DPW, currently pending in the District of Massachusetts.

2. The Parties are deemed to have agreed to and executed the Mutual Release of Claims, attached hereto as Exhibit 2.

3. Within five Court days after ConnectU and its related parties have either a) irrevocably waived their right to appeal this Judgment or b) all appeals taken are final, each of ConnectU's shareholders will transfer to an entity identified in writing by Facebook, Inc. all of said shareholders' ConnectU stock~~, endorsed for transfer; ~~. At the same time, ConnectU's current Board of Directors will provide to an entity identified in writing by Facebook, Inc. all of ConnectU's assets, books and records, including all information required to operate the business and website www.connectu.com.

4. ~~c. Facebook, Inc. shall deposit an amount of cash equal to the maximum claim asserted under the Attorneys' Lien filed by Quinn Emanuel Urquhart Oliver & Hedges, LLP~~Within five Court days after ConnectU and its related parties have either a) irrevocably waived their right to appeal this Judgment, or b) all appeals taken are final, Facebook, Inc. will place cash, as specified in the Settlement Agreement, into an escrow account established, paid for, and maintained by Cameron Winklevoss, Tyler Winklevoss and Divya Narendra. The ~~funds~~cash shall remain in said escrow until the Attorneys' Lien ~~is resolved by agreement~~filed by Quinn Emanuel Urquhart Oliver & Hedges, LLP is resolved. Subject to resolution of the Notice of Lien filed by the Quinn Emanuel firm, Facebook will place shares of Facebook, Inc. common stock, as specified in the Settlement Agreement, into an escrow account established, paid for, and maintained by Cameron Winklevoss, Tyler Winklevoss and Divya Narendra. The proceeds placed in the escrow account will be released only upon mutual agreement between the Quinn Emanuel firm, on the one hand, and Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra, on the other, or pursuant to Court Order allocating the proceeds. Such shares of Facebook, Inc. common stock shall be in certificate form bearing the legend set forth in Exhibit 3 to this Judgment and any other legends required by law. Upon Facebook, Inc.'s transfer to said escrow account, Facebook, Inc. will have no further cash or stock payment obligations pursuant to the Settlement Agreement to any party or its present or former counsel.

d. Facebook, Inc. shall wire transfer the remaining cash; and shall issue and deliver certificates for shares of Facebook, Inc. common stock, in negotiable certificate form bearing only the legend set forth in "Exhibit B" to this Judgment, in the total amount specified in the unredacted version of Exhibit A. The allocation of such remaining cash and Facebook, Inc. common stock shall be as directed by ConnectU's individual shareholders. Upon the wire transfer by Facebook, Inc. of cash and issuance of stock certificates as provided herein, Facebook, Inc. will have no further cash or stock payment obligations to Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss or Divya Narendra.

2. If any Party appeals from this Judgment, the Parties shall seek expedited consideration by the appellate courts.

5. Plaintiffs may file a motion for attorneys' fees or Bill of Costs to recover their attorneys fees and/or costs associated with enforcing the Settlement Agreement.

6. 3. The Court shall retain jurisdiction to enforce this Judgment.

Date: ____________________

____
Honorable James Ware
United States District Judge
Northern District of California

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